

Message Text

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ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AGR-05 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 JUSE-00 AF-10 ARA-10 EA-10 EUR-12 NEA-11
OIC-02 IO-13 /174 W
-----126330 200905Z /43

P 191630Z JUN 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 1012
INFO ALL EC CAPITALS
AMEMBASSY HELSINKI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO

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USMTN USEEC USOECD

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD
SUBJECT: MTN: INFORMAL DISCUSSIONS ON SUBSIDIES/CVD,
- JUNE 14 AND 15, 1978

1. SUMMARY: AFTER REVIEWING EXPANDED VERSION OF US/EC
NON-PAPER ON SUBSIDIES/COUNTERVAILING DUTIES (CVD),
PARTICIPANTS IN INFORMAL DISCUSSION (US/EC/CANADA/
JAPAN/NORDICS) AGREED TO ESTABLISH DRAFTING GROUP
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TO DEVELOP A MORE PRECISE AND DETAILED TEXT. THE
US AND EC, IN A PRIVATE MEETING, AGREED THAT THE OBJEC-
TIVE IS TO EMERGE WITH A TEXT, JUST SHORT OF A LEGAL
DOCUMENT, TO FRAME THE KEY ISSUES FOR RESOLUTION. IN
BILATERAL MEETING, CANADA'S AMBASSADOR GREY STRONGLY
CRITICIZED THE UNITED STATES FOR NOT INCORPORATING
MORE CANADIAN IDEAS IN REVISED TEXT. AT GATT SECRETARIAT

URGING, A 7 PLUS 7 WILL BE SCHEDULED FOR JUNE 26 AND 27 TO INFORM OTHER DELEGATIONS OF RECENT DEVELOPMENTS. END SUMMARY.

2. U.S. TEAM LED BY RIVERS (STR) MET WITH EC (KLEIN) AND MEMBER STATES, CANADA (AMB GREY), JAPAN (HAYAKAWA), NORDICS (EKBLOM), AND GATT SECRETARIAT (LINDEN) IN AN INFORMAL MEETING TO DISCUSS THE EXPANDED VERSION OF U.S./EC NON-PAPER ON SUBSIDIES/CVD. MEETING WAS LARGELY A TRILATERAL EXCHANGE AMONG U.S., EC, AND CANADA, COVERING MUCH OF THE SAME GROUND AS PREVIOUS MEETINGS. THE COMMISSION SPOKESMAN, APPARENTLY FOR THE BENEFIT OF THE MEMBER STATES, REITERATED THE EC'S BASIC DESIRE FOR THE U.S. TO CONFORM TO GATT RULES. THIS SPARKED A U.S. EXHORTATION ON THE NEED FOR INCREASED DISCIPLINE ON SUBSIDIES TO AVOID SERIOUS CLASHES IN TRADE IN THE FUTURE. HIGHLIGHTS OF DISCUSSION ON SPECIFIC ELEMENTS OF THE PAPER ARE AS FOLLOWS:

- (A) PROVISIONAL MEASURES ON EXPORT SUBSIDIES - GREY INDICATED THAT HE WOULD NOT RULE OUT POSSIBLE CANADIAN AGREEMENT TO PROVISIONAL ACTIONS, SUBJECT TO TIME LIMITS, IN EMERGENCY SITUATIONS WITH RESPECT TO EXPORT SUBSIDIES PURSUED UNDER THE GATT ARTICLE XVI/XXIII TRACK. EC MAINTAINED THAT THEY COULD ACCEPT SUCH UNILATERAL ACTION ONLY IN CASES OF MATERIAL INJURY (E.G., LIMITED OFFICIAL USE

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ARTICLE VI TRACK). AS A DETERENT TO THE EXCESSIVE USE OF PROVISIONAL MEASURES, CANADA SUGGESTED THAT COMPENSATION BE GRANTED FOR DAMAGES CAUSED WHEN PROVISIONAL MEASURES ARE EMPLOYED BUT NO VIOLATION OF THE EXPORT SUBSIDY OBLIGATIONS ARE FOUND. RIVERS ASSERTED THAT RESORT TO PROVISIONAL MEASURES WOULD NOT BE A UNILATERAL DETERMINATION OF A VIOLATION OF SUBSIDY RULES, BUT WOULD PROTECT THE INTERESTS OF PARTICIPANTS DURING, AND EXPEDITE TO COMPLETION OF, THE DISPUTE SETTLEMENT PROCESS. NORDIC AND JAPANESE DELS REGISTERED THEIR RESERVATION ON THE USE OF UNILATERAL PROVISIONAL MEASURES FOR VIOLATION OF THE EXPORT SUBSIDY RULES.

- (B) EXPORT SUBSIDIES - EC CHANGED ITS PREVIOUS POSITION BY AGREEING WITH CANADA THAT ADEQUATE DEFINITION OF EXPORT SUBSIDIES IS IMPOSSIBLE AND THAT A LENGTHY LIST OF EXPORT SUBSIDY PRACTICES WITH A FINAL CATCH-ALL CATEGORY AT THE END WOULD BE PREFERABLE. THE U.S. NOTED ITS DISSATISFACTION WITH PREVIOUS ATTEMPTS TO DEFINE EXPORT SUBSIDIES, BUT ASKED DELS TO KEEP AN OPEN MIND ON THE ISSUE.

- (C) DOMESTIC SUBSIDIES - CANADA QUESTIONED THE

UTILITY OF GUIDELINES ON DOMESTIC SUBSIDIES IF NO BENEFIT
DERIVES FROM THEIR OBSERVANCE. GREY NOTED THAT THE
GUIDELINES FAILED TO INCLUDE SOME IMPORTANT ISSUES,
E.G. COMMONLY USED SUBSIDIES FOR EXPLORATION FOR NATURAL
RESOURCES AND SUBSIDY COMPETITION AMONG GOVERNMENTS TO
ENTICE INVESTMENT. GREY WAS PARTICULARLY INTERESTED
IF THE GUIDELINES WOULD BE RESPECTED BY THE U.S. STATES.
EC STATED THAT THEY ARE NOT WILLING TO GO BEYOND THE
DECLARATION IN THE DRAFT DOCUMENT, EMPHASIZING THAT
SUCH SUBSIDIES WERE ACTIONABLE ONLY IF MATERIAL INJURY
WERE FOUND. U.S. RESPONDED THAT THE GUIDELINES SHOULD
BE TAKEN INTO ACCOUNT BY A COUNTRY IN ITS DOMESTIC
POLICY AND OFFERED TO CONSIDER THE CANADIAN IDEAS.
JAPAN EXPRESSED "UNEASINESS" ON THE PROVISIONS FOR
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ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AGR-05 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 JUSE-00 AF-10 ARA-10 EA-10 EUR-12 NEA-11
OIC-02 IO-13 /174 W

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P 191630Z JUN 78

FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 1013
INFO ALL EC CAPITALS
AMEMBASSY HELSINKI
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DOMESTIC SUBSIDIES AND NORDICS STRESSED THE CRUCIAL IMPORTANCE OF MAINTAINING THE REFERENCE TO ADVERSE TRADE EFFECTS IN THE DOMESTIC SUBSIDY SECTION.

- (D) RELATIONSHIP TO ANTIDUMPING CODE (ADC)
PROVISIONS: EC, NORDICS, AND CANADA SUGGESTED THAT DRAFT LANGUAGE CLOSELY FOLLOW PROVISIONS IN THE ADC, E.G. CONCEPTS OF "LIKE PRODUCT", DEFINITION OF INDUSTRY, CAUSAL LINK OF IMPORTS WITH INJURY, AND REGIONAL INDUSTRY. EC, NORDICS, AND JAPAN FAVOR RETENTION OF THE CONCEPT OF "PRINCIPAL CAUSE" OF MATERIAL INJURY.
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IN CONTRAST, CANADA REGARDS THAT PHRASE AS SUPERFLUOUS AND PREFERS TO CONCENTRATE ON RIGOROUS CRITERIA FOR MATERIAL INJURY. EC INTRODUCED THE IDEA THAT IF THERE WERE A CONSENSUS TO ELABORATE CONCEPTS FOR THE CVD ARRANGEMENT WHICH DIFFER FROM THOSE IN ADC, THESE NEW CONCEPTS SUBSEQUENTLY COULD BE MADE IN THE ADC. SUCH ACTION, IN THE EC'S VIEW, WOULD GIVE THE U.S. AN OPPORTUNITY TO INCORPORATE THE ADC PROVISIONS IN AN MTN PACKAGE AND IMPLEMENT THEM INTO U.S. LAW.

- (E) PERMISSIVE APPLICATION OF CVD'S - CANADA AGREED WITH EC THAT IMPOSITION OF CVD'S SHOULD NOT BE AUTOMATIC, BUT SUGGESTED THAT RATHER THAN USING A "NATIONAL INTEREST" CRITERION AS A REASON FOR NOT IMPOSING CVD'S, THAT PROVISIONS SHOULD BE INCLUDED FOR SETTING ASIDE DECISIONS WHICH ARE INCORRECT. U.S. REITERATED ITS BELIEF THAT ACHIEVEMENT OF DISCRETIONARY AUTHORITY IN U.S. LAW IS NOT PROMISING.

- (F) DUAL PRICING - IN PRIVATE CONVERSATION, KLEIN REPEATED THE EC POSITION THAT THE DUAL PRICING CRITERION SHOULD BE RETAINED. HE SUGGESTED, HOWEVER, THAT USE OF PROHIBITED SUBSIDIES COULD BE PRESUMED TO RESULT IN DUAL PRICING. U.S. SAID IT WOULD CONSIDER THIS APPROACH.

- (G) SPECIAL AND DIFFERENTIAL TREATMENT (S&D) -
CANADA SUGGESTED THAT DEVELOPING COUNTRIES NOT BE SUBJECT TO THE PROHIBITION ON EXPORT SUBSIDIES EXCEPT ON CERTAIN PRODUCTS IN WHICH THEY ARE COMPETITIVE. THUS, LDC EXPORTS WOULD BE SUBJECT TO CVD ONLY IF INJURY WERE PROVEN. EC MAINTAINED THAT PERMISSIVE APPLICATION OF CVD'S WOULD BE THE MOST APPROPRIATE FORM OF S&D IN ORDER TO GIVE CONSIDERATION TO THE PARTICULAR DEVELOPMENT

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SITUATION OF INDIVIDUAL LDC'S.

3. CANADA SAID THAT ALL DELS HAVE BENEFITTED FROM THE NON-PAPER AND THE DISCUSSIONS AND THAT THE TIME HAD COME TO MOVE TO THE DRAFTING OF A MORE PRECISE TEXT. GREY OPINED THAT "ENOUGH IS ON THE TABLE" THAT SOMETHING COULD EMERGE ON WHICH THERE IS A "LARGE MEASURE OF AGREEMENT". THE NORDICS REGARDED THE NON-PAPER AS A STEP FORWARD AND EXPRESSED WILLINGNESS TO PARTICIPATE IN THE DRAFTING. THE U.S. AND EC WELCOMED THE OPPORTUNITY TO WORK TOGETHER WITH OTHER DELS TO DEVELOP A MORE PRECISE TEXT. IN A BILATERAL SESSION, U.S. (AMB MCDONALD AND RIVERS) AND EC AGREED THAT THE OBJECTIVE WOULD BE TO EMERGE WITH AS PRECISE A TEXT AS POSSIBLE, WITHOUT GETTING INTO LENGTHY LEGAL DRAFTING, SO THAT THE KEY ISSUES ARE FRAMED FOR DECISION. SUBSEQUENTLY, LEGAL TEXTS COULD BE DRAFTED BASED UPON THE AGREED APPROACH. MCDONALD STRESSED THAT THE LANGUAGE OF TEXT SHOULD BE PRECISE ENOUGH SO THAT CLEAR GUIDANCE IS GIVEN TO DRAFTERS AND THERE IS NO POSSIBILITY OF ENCOUNTERING MISINTERPRETATIONS ON MAJOR ISSUES AT A LATER DATE. THE INFORMAL GROUP AGREED THAT DRAFTING SHOULD BEGIN EITHER THE LAST WEEK IN JUNE OR THE FIRST WEEK IN JULY AND WOULD LAST FOR THREE DAYS. IF NECESSARY, A SECOND DRAFTING SESSION WOULD BE HELD PRIOR TO JULY 15 TO FURTHER REFINE THE TEXT.

4. THE GATT SECRETARIAT SUGGESTED THAT DELEGATIONS NOT PRIVELEDGED TO PARTICIPATE IN THE INFORMAL SESSIONS SHOULD BE GIVEN THE OPPORTUNITY TO BE BROUGHT UP TO DATE ON THE CURRENT THINKING. THE GROUP AGREED THAT AN INFORMAL 7 PLUS 7 MEETING SHOULD BE HELD JUNE 26 OR 27.

5. BILATERAL WITH CANADA: PRIOR TO THE PLURILATERAL MEETING, THE U.S. TEAM MET WITH CANADA TO REVIEW THE NON-PAPER. GREY STRONGLY CRITICIZED THE U.S. FOR NOT REFLECTING MORE CANADIAN VIEWS IN THE PRESENT DOCUMENT.
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GREY ALSO EMPHASIZED THAT IF ANY AGREEMENT IS REACHED ON SUBSIDY RULES, THE U.S. SHOULD LIVE UP TO THE INTERNATIONAL COMMITMENT, I.E. ABOLISH THE DISC. SINCE CANADA AND EC HAVE MADE CLEAR THAT THEIR TARIFF OFFERS

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ACTION STR-07

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 STRE-00 AGR-05
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01
INR-10 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
CTME-00 AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02
SOE-02 OMB-01 DOE-15 JUSE-00 AF-10 ARA-10 NEA-11
OIC-02 /174 W

-----000565 200904Z /11

P 191630Z JUN 78 ZDK CTG NUMEROUS SVCS
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 1014
INFO ALL EC CAPITALS
AMEMBASSY HELSINKI
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AMEMBASSY OTTAWA
AMEMBASSY STOCKHOLM
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ARE CONTINGENT UPON IMPLEMENTATION OF NTM AGREEMENTS,
GREY ASSERTED THAT FAILURE TO REMOVE DISC COULD HAVE
A SERIOUS IMPACT ON THE MTN.

6. DRAFTED BY WALLAR. CULBERT

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
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Concepts: SUBSIDIES
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Copy: SINGLE
Draft Date: 19 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Image Path:
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Legacy Key: link1978/newtext/t19780645/aaaabnai.tel
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Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 21024186-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
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Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2302736
Secure: OPEN
Status: NATIVE
Subject: MTN: INFORMAL DISCUSSIONS ON SUBSIDIES/CVD, - JUNE 14 AND 15, 1978
TAGS: ETRD, MTN
To: STATE USOECD MULTIPLE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/21024186-c288-dd11-92da-001cc4696bcc
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